REMARKS

The Office Action of August 12, 2005 has been reviewed and the comments therein were carefully considered. Claims 1-23 are pending in the application. Claims 1-23 stand rejected. As explained in more detail below, Applicants submit that all claims are in condition for allowance and respectfully request such action.

Appropriateness of Final Rejection.

Citing MPEP §706.07(a), the Office Action dated August 12, 2005 was made final. Section 706.07(a) sets forth that a second or any subsequent action may be made final "except where the Examiner introduces a new ground of rejection that is neither necessitated by the applicant's amendment of the claims nor based on information submitted in an information disclosure statement..." The Applicants submit the new grounds of rejection (i.e., the '073 patent) were not necessitated by the Applicants' amendment. For example, claim 1 was amended as follows:

A method of transmitting requests and content at a cache computer, wherein a first computer device and a second computer device are coupled to the cache computer and the first computer device requests content from the second computer device; the method comprising the steps of:

(a) receiving a cache request from the second computer device; and

(b) receiving at the cache computer non-requested content from the second computer device, wherein the non-requested content is content other than content requested by the first computer device.

(Claim 5; as amended in the Response to Office Action dated February 10, 2005) As readily seen, the phrase "non-requested content" was already present in the same limitation of the claim. The amendment was merely to provide proper antecedent basis and did not alter the scope or subject matter of the claim. The same amendment was made in claim 22 for the same reason.

Claim 5 was amended to clarify that the "cache server" was the "cache computer" recited in claim 1. Indeed, the amendment was made in response to a 35 U.S.C. § 112 rejection stating there was no antecedent basis for the limitation "the" before "cache server". The amendment was merely to provide antecedent basis and did not alter the scope of the claim. The Applicants, therefore, traverse the finality of the Office Action as the new rejections were not necessitated by the Applicants' amendment and request that the finality of the Office Action be withdrawn.

Rejection Under 35 USC §102(e) – Starnes et al.

Claims 1-2, 4 and 22 are rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,578,073 ("the '073 patent") to Starnes, et al. The Applicants respectfully traverse the rejection in view of the following Remarks.

The Office Action asserts the '073 patent teaches methods for receiving non-requested content at a cache computer. More specifically, the Office Action alleges the step of "receiving at the cache computer non-requested content from the second computer device, wherein the non-requested content is content other than content requested by the first computer device" is met by Col. 8, lines 42 – 56 of the '073 patent. The Office Action sets forth that "pre-fetch images are actually non-requested data". (Office Action dated 08/12/2005; see, e.g., pgs. 3 and 4).

The '073 patent appears to merely be directed towards systems and methods for accelerating data already associated with a requested HTML document. Indeed, the specification discloses "[a]n image observer 210 receives a data request...[and] indentif[ies] images associated therewith. Col. 7, lines 16 – 18; emphasis added. Moreover, The observer 300, ("suitable for use as the observer 210") includes a Hypertext Markup Language (HTML) parser 302, wherein:

> [t]he observer 300 receives an HTML document from the content server 108...[and] then parses the HTML document to identify image requests within the HTML document. The images within the HTML document are normally represented by files within the HTML document that can be identified by image tags or file extensions...Hence, it is these identified images that can be pre-fetched by the image manager 306 before the requesting browser makes the request for the images it identifies in the HTML document. By pre-fetching the images in this manner, the invention provides a certain amount of improvement in response time to the requester (i.e., accelerated delivery).

Col. 8, lines 7 -15 and 50 - 56; emphasis added. Therefore, the HTML data (content) must be requested before the files (such as images) within the HTML document can be "pre-fetched".

In contrast, claims 1 and 22 explicitly recite the "the non-requested content is content other than content requested". Therefore, the Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejections Under 35 USC §103(a)

Claim 3 is rejected under 35 USC §103(a) as being unpatentable over Starnes et al., U.S. Patent No. 6,578,073 in view of Cieslak et al., U.S. Patent No. 6,832,252 ("the '252 patent"). The Applicants traverse the rejection in view of the following Remarks.

As discussed above, the '073 patent is directed towards fetching data from requested HTML documents and does not teach, disclose, or otherwise suggest the subject matter of claim 1, from which claim 3 depends. Nor does the '252 patent disclose the step of "receiving at the cache computer non-requested content from the second computer device, wherein the non-requested content is content other than content requested by the first computer device". Rather, '252 patent can be interpreted as teaching away from receiving non-requested data, as it expressly acknowledges the bandwidth restraint historically associated with transferring files across the web. (See, e.g., Col. 1, lines 38-41, setting forth "Given the increase of traffic on the World Wide Web and the growing bandwidth demands of ever more sophisticated multimedia content, there has been constant pressure to find more efficient ways to service data requests..."). If the requested data is already over congesting the network, one skilled in the art would not transmit more data, never mind unrequested data upon consulting the '252 patent. Therefore, one skilled in the art at the time of the present invention would not be motivated to transmit non-requested data to a computing device across a network, such as the web upon reading the '252 patent. Therefore, the Applicants respectfully traverse this ground for rejection and request reconsideration.

Claims 5-9 are rejected under 35 USC §103(a) as being unpatentable over Starnes et al., U.S. Patent No. 6,578,073 in view of Einarson et al., U.S. Patent No. 6,704,781 ("the '781 patent"). The Applicants traverse the rejection in view of the following Remarks.

As discussed above, the '073 patent is directed towards fetching data from requested HTML documents and does not teach, disclose, or otherwise suggest the subject matter of claim 1, from which claims 5 – 9 depend. The secondary reference, the '781 patent, teaches caching appliances that "can be used to reduce the amount of bandwidth consumed by an ISP by serving some requests from a local cache." (Col. 1, lines 21-25; emphasis added). Indeed, the caching appliances serve requests from the cache, not unrequested data, as claimed in the present invention. To this end, a goal of the '781 patent was to "reduce the amount of bandwidth consumed", thereby one skilled in the art would not be motivated by the reference to utilize increase the bandwidth consumption to retrieve unrequested data (Col. 1, lines 22-23). In fact, It can be argued that the '781 patent teaches away from the present invention. For at least these reasons, the Applicants, respectfully traverse this rejection and request reconsideration.

Claims 10-11 are rejected under 35 USC §103(a) as being unpatentable over Starnes et al., U.S. Patent No. 6,578,073 in view of Aviani et al., U.S. Patent No. 5,950,205 ("the '205 patent"). The Applicants traverse the rejection in view of the following Remarks.

First, as discussed above, the '073 patent is directed towards fetching data from requested HTML documents and therefore, does not teach, disclose, or otherwise suggest the subject matter of claim 1, from which claims 10 – 11 depend.

The Office Action asserts that column 5, lines 51-56 of the '205 patent discloses receiving the identification of non-requested content at a second computer and receiving memory addresses as the non-requested content. As previously indicated to the Examiner, from the Applicants' understanding, the cited text relates to the directory structure of disk drives in the cache memory, wherein the directory is stored in a cache server's volatile memory. (See Col. 5, lines 24-42). While the cited text discusses the probability of

receiving a false positive match, the Applicant's do not believe the cited text, or any disclosure in the '205 patent teaches the claimed aspects of the present invention. Even if there were a motivation to combine the '205 and '073 patent, the claimed aspects of the rejected claims are not taught, disclosed, or otherwise suggested.

Claim 12 is rejected under 35 USC §103(a) as being unpatentable over Starnes et al., U.S. Patent No. 6,578,073 in view of Aviani et al., U.S. Patent No. 5,950,250 and in further view of Cieslak et al., U.S. Patent No. 6,832,252. The Applicants traverse the rejection in view of the following Remarks.

As discussed above in regards to Examiner's rejection to claims 10 and 11, neither the '205 patent nor the '073 patent individually or in combination with any art of record teaches, discloses, or otherwise suggests the claimed aspects of the rejected claims. Moreover, as discussed in great detail above, the '252 patent teaches away from receiving non-requested data. For at least the above reasons, the cited patents cannot be interpreted as suggesting or otherwise disclosing the claimed aspects of the rejected claims. The Applicants, therefore, respectfully traverse this rejection and request reconsideration.

Claims 13-20, and 23 are rejected under 35 USC §103(a) as being unpatentable over Einarson et al., U.S. Patent No. 6,704,781 in view of Chong, Jr., U.S. Patent No. 6,397,267 ("the '267 patent"). The Applicants traverse the rejection in view of the following Remarks.

The Office Action again rejects claims 13 – 20 and 23 as obvious over the '781 patent in view of the '267 patent. As the Applicants have previously set forth, the '267 patent discloses a single host computer that controls a host storage controller and a storage device. In contrast, the '781 patent teaches caching appliances that "can be used to reduce the amount of bandwidth consumed by an ISP by serving some requests from a local cache." (Col. 1, lines 21-25; emphasis added). Indeed, the caching appliances serve requests from the cache, not un-requested data. An explicit goal of the '781 patent was to "reduce the amount of bandwidth consumed", thereby one skilled in the art would not be motivated by

the reference to increase the bandwidth consumption to retrieve un-requested data (Col. 1, lines 22-23). In fact, It can be argued that the '781 patent teaches away from this aspect of the rejected claims. Despite this, the Office Action asserts it would have been obvious to at the time of the invention for an artisan of ordinary skill in the art to combine the patents for the following reasons:

- "in anticipation of future read requests." (alleged motivation for claim 13)
- "improve reliability for data storage and retrieval by reducing latency in data transfers" (alleged motivation for claim 14)
- "efficacy would be improved by the process of anticipation of future read requests" (alleged motivation for claim 23).

One skilled in the art would not be motivated to achieve these ends by consulting an application which set forth methods and systems for "reduce[ing] the amount of bandwidth consumed". Moreover, the Office Action is silent in regards to motivation to combine in relation to claims 15 – 20. Therefore, for at least these reasons, the Applicants respectfully traverse this rejection and request reconsideration.

Claim 16 is rejected under 35 USC §103(a) as being unpatentable over Einarson et al., U.S. Patent No. 6,704,781 in view of Chong, Jr., U.S. Patent No. 6,397,267 in further view of Krishnamurthy et al., U.S. Patent No. 6,578,113 ("the '113 patent"). The Applicants traverse the rejection in view of the following Remarks.

As discussed above, neither the '781 patent nor the '267 patent individually or in combination with any art of record teaches, discloses, or otherwise suggests the claimed aspects of the rejected claims, for example, transmitting to the cache computer device non-requested content. Regarding the '113 patent, it is directed towards a method and apparatus for cache validation for proxy caches, wherein:

> [i]n the context of the Internet and the World Wide Web, a proxy cache is a machine that acts as an intermediary between potentially hundreds of clients and remote web servers by funneling requests from clients to various servers.

Col. 1, lines 56 – 59; emphasis added. Furthermore, the Office Action alleges a motivation to combine the references exists because "such [a] system would greatly improve QoS by

providing fresh content as soon as it becomes avail[a]ble." Office Action dated 8/12/05; page 12. As mentioned before, the primary reference, the '781 patent, teaches caching appliances that "can be used to reduce the amount of bandwidth consumed by an ISP by serving some requests from a local cache." (Col. 1, lines 21-25; emphasis added). One skilled in the art would understand that updating new information as it becomes available on the internet or other network would not lower bandwidth, but rather increase it – against the teaching of the primary reference. Additionally, according to the teachings of the '781 patent, it would first have to be requested. Therefore, for at least these reasons, the Applicants respectfully traverse this rejection and request reconsideration.

Claim 21 is rejected under 35 USC §103(a) as being unpatentable over Einarson et al., U.S. Patent No. 6,704,781 in view of Cieslak et al., U.S. Patent No. 6,832,252. The Applicants traverse the rejection in view of the following Remarks.

The Office Action asserts that one skilled in the art would be motivated to combine the invention of the'781 patent with the adding a header to the request as articulated by the '252 patent because routing and execution of the request is better achieved. This motivation to combine does not address the limitations of base claim 13, such as for example, "transmitting to the cache computer device non-requested content, wherein the non-requested is content other than content requested by the cache computer device." Indeed, the proposed motivation to combine only addresses routing and execution of the request. Moreover, as discussed above, neither the '781 patent nor the '252 patent individually or in combination with any art of record teaches, discloses, or otherwise suggests the claimed aspects of the rejected claims. Therefore, for at least these reasons, the Applicants respectfully traverse this rejection and request reconsideration

CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

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By _____
Shawn P. Gorman
Reg. No. 56,197

BANNER & WITCOFF, LTD.
10 South Wacker Drive
Suite 3000
Chicago, IL 60606-7407
Telephone: (312) 463-5000
Facsimile: (312) 463-5001